

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 160

99TH GENERAL ASSEMBLY
2017

0346H.04T

AN ACT

To repeal sections 21.771, 210.110, 210.152, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, 211.447, and 566.150, RSMo, and to enact in lieu thereof thirteen new sections relating to child protection, with penalty provisions and an emergency clause for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 21.771, 210.110, 210.152, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, 211.447, and 566.150, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 21.771, 210.110, 210.152, 210.564, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, 211.447, and 566.150, to read as follows:

21.771. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Child Abuse and Neglect" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place. No party shall be represented more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 but the concurrence of a majority of the members shall be required for the
13 determination of any matter within the committee's duties.

14 2. The joint committee shall:

15 (1) Make a continuing study and analysis of the state child abuse and
16 neglect reporting and investigation system;

17 (2) Devise a plan for improving the structured decision making regarding
18 the removal of a child from a home;

19 (3) Determine the additional personnel and resources necessary to
20 adequately protect the children of this state and improve their welfare and the
21 welfare of families;

22 (4) Address the need for additional foster care homes and to improve the
23 quality of care provided to abused and neglected children in the custody of the
24 state;

25 (5) Determine from its study and analysis the need for changes in
26 statutory law;

27 (6) Make any other recommendation to the general assembly necessary to
28 provide adequate protections for the children of our state; and

29 (7) Make recommendations on how to improve abuse and neglect
30 proceedings including examining the role of the judge, children's division, the
31 juvenile officer, the guardian ad litem, and the foster parents.

32 3. The joint committee shall meet within thirty days after its creation and
33 organize by selecting a chairperson and a vice chairperson, one of whom shall be
34 a member of the senate and the other a member of the house of
35 representatives. The chairperson shall alternate between members of the house
36 and senate every two years after the committee's organization.

37 4. The committee shall meet at least quarterly. The committee may meet
38 at locations other than Jefferson City when the committee deems it necessary.

39 5. The committee shall be staffed by legislative personnel as is deemed
40 necessary to assist the committee in the performance of its duties.

41 6. The members of the committee shall serve without compensation but
42 shall be entitled to reimbursement for actual and necessary expenses incurred in
43 the performance of their official duties.

44 7. It shall be the duty of the committee to compile a full report of its
45 activities for submission to the general assembly. The report shall be submitted
46 not later than the fifteenth of January of each year in which the general assembly
47 convenes in regular session and shall include any recommendations which the

48 committee may have for legislative action as well as any recommendations for
49 administrative or procedural changes in the internal management or organization
50 of state or local government agencies and departments. Copies of the report
51 containing such recommendations shall be sent to the appropriate directors of
52 state or local government agencies or departments included in the report.

53 8. The provisions of this section shall expire on [January 15, 2018]
54 **January 15, 2023.**

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to
2 210.183, the following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse
4 inflicted on a child other than by accidental means by those responsible for the
5 child's care, custody, and control, except that discipline including spanking,
6 administered in a reasonable manner, shall not be construed to be
7 abuse. **Victims of abuse shall also include any victims of sex trafficking**
8 **or severe forms of trafficking as those terms are defined in 22 U.S.C. 78**
9 **Section 7102(9)-(10);**

10 (2) "Assessment and treatment services for children under ten years old",
11 an approach to be developed by the children's division which will recognize and
12 treat the specific needs of at-risk and abused or neglected children under the age
13 of ten. The developmental and medical assessment may be a broad physical,
14 developmental, and mental health screening to be completed within thirty days
15 of a child's entry into custody and every six months thereafter as long as the child
16 remains in care. Screenings may be offered at a centralized location and include,
17 at a minimum, the following:

18 (a) Complete physical to be performed by a pediatrician familiar with the
19 effects of abuse and neglect on young children;

20 (b) Developmental, behavioral, and emotional screening in addition to
21 early periodic screening, diagnosis, and treatment services, including a core set
22 of standardized and recognized instruments as well as interviews with the child
23 and appropriate caregivers. The screening battery may be performed by a
24 licensed mental health professional familiar with the effects of abuse and neglect
25 on young children, who will then serve as the liaison between all service
26 providers in ensuring that needed services are provided. Such treatment services
27 may include in-home services, out-of-home placement, intensive twenty-four-hour
28 treatment services, family counseling, parenting training and other best practices.
29 Children whose screenings indicate an area of concern may complete a

30 comprehensive, in-depth health, psychodiagnostic, or developmental assessment
31 within sixty days of entry into custody;

32 (3) "Central registry", a registry of persons where the division has found
33 probable cause to believe prior to August 28, 2004, or by a preponderance of the
34 evidence after August 28, 2004, or a court has substantiated through court
35 adjudication that the individual has committed child abuse or neglect or the
36 person has pled guilty or has been found guilty of a crime pursuant to section
37 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or 567.050 if the
38 victim is a child less than eighteen years of age, or any other crime pursuant to
39 chapter 566 if the victim is a child less than eighteen years of age and the
40 perpetrator is twenty-one years of age or older, a crime under section 568.020,
41 568.030, 568.045, 568.050, 568.060, 568.080, 568.090, 573.023, 573.025, 573.035,
42 573.037, 573.040, 573.200, or 573.205, or an attempt to commit any such
43 crimes. Any persons placed on the registry prior to August 28, 2004, shall remain
44 on the registry for the duration of time required by section 210.152;

45 (4) "Child", any person, regardless of physical or mental condition, under
46 eighteen years of age;

47 (5) "Children's services providers and agencies", any public, quasi-public,
48 or private entity with the appropriate and relevant training and expertise in
49 delivering services to children and their families as determined by the children's
50 division, and capable of providing direct services and other family services for
51 children in the custody of the children's division or any such entities or agencies
52 that are receiving state moneys for such services;

53 (6) "Director", the director of the Missouri children's division within the
54 department of social services;

55 (7) "Division", the Missouri children's division within the department of
56 social services;

57 (8) "Family assessment and services", an approach to be developed by the
58 children's division which will provide for a prompt assessment of a child who has
59 been reported to the division as a victim of abuse or neglect by a person
60 responsible for that child's care, custody or control and of that child's family,
61 including risk of abuse and neglect and, if necessary, the provision of community-
62 based services to reduce the risk and support the family;

63 (9) "Family support team meeting" or "team meeting", a meeting convened
64 by the division or children's services provider in behalf of the family and/or child
65 for the purpose of determining service and treatment needs, determining the need

66 for placement and developing a plan for reunification or other permanency
67 options, determining the appropriate placement of the child, evaluating case
68 progress, and establishing and revising the case plan;

69 (10) "Investigation", the collection of physical and verbal evidence to
70 determine if a child has been abused or neglected;

71 (11) "Jail or detention center personnel", employees and volunteers
72 working in any premises or institution where incarceration, evaluation, care,
73 treatment or rehabilitation is provided to persons who are being held under
74 custody of the law;

75 (12) "Neglect", failure to provide, by those responsible for the care,
76 custody, and control of the child, the proper or necessary support, education as
77 required by law, nutrition or medical, surgical, or any other care necessary for the
78 child's well-being. **Victims of neglect shall also include any victims of sex**
79 **trafficking or severe forms of trafficking as those terms are defined in**
80 **22 U.S.C. 78 Section 7102(9)-(10);**

81 (13) "Preponderance of the evidence", that degree of evidence that is of
82 greater weight or more convincing than the evidence which is offered in
83 opposition to it or evidence which as a whole shows the fact to be proved to be
84 more probable than not;

85 (14) "Probable cause", available facts when viewed in the light of
86 surrounding circumstances which would cause a reasonable person to believe a
87 child was abused or neglected;

88 (15) "Report", the communication of an allegation of child abuse or neglect
89 to the division pursuant to section 210.115;

90 (16) "Those responsible for the care, custody, and control of the child",
91 [those included but not limited to] **includes, but is not limited to:**

92 (a) The parents or [guardian] **legal guardians** of a child[.];

93 (b) Other members of the child's household[, or];

94 (c) Those exercising supervision over a child for any part of a twenty-four-
95 hour day[. Those responsible for the care, custody and control shall also include];

96 (d) Any [adult] **person** who[.] **has access to the child** based on
97 relationship to the parents of the child[.] **or** members of the child's household or
98 the family[, has access to the child]; **or**

99 (e) **Any person who takes control of the child by deception, force,**
100 **or coercion.**

210.152. 1. All identifying information, including telephone reports

2 reported pursuant to section 210.145, relating to reports of abuse or neglect
3 received by the division shall be retained by the division and removed from the
4 records of the division as follows:

5 (1) For investigation reports contained in the central registry, identifying
6 information shall be retained by the division;

7 (2) (a) For investigation reports initiated against a person required to
8 report pursuant to section 210.115, where insufficient evidence of abuse or neglect
9 is found by the division and where the division determines the allegation of abuse
10 or neglect was made maliciously, for purposes of harassment or in retaliation for
11 the filing of a report by a person required to report, identifying information shall
12 be expunged by the division within forty-five days from the conclusion of the
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or
15 neglect is found by the division and where the division determines the allegation
16 of abuse or neglect was made maliciously, for purposes of harassment or in
17 retaliation for the filing of a report, identifying information shall be expunged by
18 the division within forty-five days from the conclusion of the investigation;

19 (c) For investigation reports initiated by a person required to report under
20 section 210.115, where insufficient evidence of abuse or neglect is found by the
21 division, identifying information shall be retained for five years from the
22 conclusion of the investigation. For all other investigation reports where
23 insufficient evidence of abuse or neglect is found by the division, identifying
24 information shall be retained for two years from the conclusion of the
25 investigation. Such reports shall include any exculpatory evidence known by the
26 division, including exculpatory evidence obtained after the closing of the case. At
27 the end of such time period, the identifying information shall be removed from
28 the records of the division and destroyed;

29 **(d) For investigation reports where the identification of the**
30 **specific perpetrator or perpetrators cannot be substantiated and the**
31 **division has specific evidence to determine that a child was abused or**
32 **neglected, the division shall retain the report and all identifying**
33 **information but shall not place an unknown perpetrator on the central**
34 **registry. The division shall retain all identifying information for the**
35 **purpose of utilizing such information in subsequent investigations or**
36 **family assessments of the same child, the child's family, or members of**
37 **the child's household. The division shall retain and disclose**

38 **information and findings in the same manner as the division retains**
39 **and discloses family assessments. If the division made a finding of**
40 **abuse or neglect against an unknown perpetrator prior to August 28,**
41 **2017, the division shall remove the unknown perpetrator from the**
42 **central registry but shall retain and utilize all identifying information**
43 **as otherwise provided in this section;**

44 (3) For reports where the division uses the family assessment and services
45 approach, identifying information shall be retained by the division;

46 (4) For reports in which the division is unable to locate the child alleged
47 to have been abused or neglected, identifying information shall be retained for ten
48 years from the date of the report and then shall be removed from the records of
49 the division.

50 2. Within ninety days, or within one hundred twenty days in cases
51 involving sexual abuse, or until the division's investigation is complete in cases
52 involving a child fatality or near-fatality, after receipt of a report of abuse or
53 neglect that is investigated, the alleged perpetrator named in the report and the
54 parents of the child named in the report, if the alleged perpetrator is not a
55 parent, shall be notified in writing of any determination made by the division
56 based on the investigation. The notice shall advise either:

57 (1) That the division has determined by a probable cause finding prior to
58 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
59 that abuse or neglect exists and that the division shall retain all identifying
60 information regarding the abuse or neglect; that such information shall remain
61 confidential and will not be released except to law enforcement agencies,
62 prosecuting or circuit attorneys, or as provided in section 210.150; that the
63 alleged perpetrator has sixty days from the date of receipt of the notice to seek
64 reversal of the division's determination through a review by the child abuse and
65 neglect review board as provided in subsection 4 of this section; [or]

66 (2) That the division has not made a probable cause finding or determined
67 by a preponderance of the evidence that abuse or neglect exists; or

68 (3) **The division has been unable to determine the identity of the**
69 **perpetrator of the abuse or neglect. The notice shall also inform the**
70 **child's parents and legal guardian that the division shall retain, utilize,**
71 **and disclose all information and findings as provided in family**
72 **assessment and services cases.**

73 3. The children's division may reopen a case for review [at the request of

74 the alleged perpetrator, the alleged victim, or the office of the child advocate] if
75 new, specific, and credible evidence is obtained [that the division's decision was
76 based on fraud or misrepresentation of material facts relevant to the division's
77 decision and there is credible evidence that absent such fraud or
78 misrepresentation the division's decision would have been different. If the
79 alleged victim is under the age of eighteen, the request for review may be made
80 by the alleged victim's parent, legal custodian, or legal guardian. All requests to
81 reopen an investigation for review shall be made within a reasonable time and
82 not more than one year after the children's division made its decision. The
83 division shall not reopen a case for review based on any information which the
84 person requesting the review knew, should have known, or could by the exercise
85 of reasonable care have known before the date of the division's final decision in
86 the case, unless the person requesting the review shows by a preponderance of
87 the evidence that he or she could not have provided such information to the
88 division before the date of the division's final decision in the case. Any person,
89 other than the office of the child advocate, who makes a request to reopen a case
90 for review based on facts which the person knows to be false or misleading or who
91 acts in bad faith or with the intent to harass the alleged victim or perpetrator
92 shall not have immunity from any liability, civil or criminal, for providing the
93 information and requesting that the division reopen the investigation. Any
94 person who makes a request to reopen an investigation based on facts which the
95 person knows to be false shall be guilty of a class A misdemeanor. The children's
96 division shall not reopen an investigation under any circumstances while the case
97 is pending before a court of this state nor when a court has entered a final
98 judgment after de novo judicial review pursuant to this section].

99 4. Any person named in an investigation as a perpetrator who is
100 aggrieved by a determination of abuse or neglect by the division as provided in
101 this section may seek an administrative review by the child abuse and neglect
102 review board pursuant to the provisions of section 210.153. Such request for
103 review shall be made within sixty days of notification of the division's decision
104 under this section. In those cases where criminal charges arising out of facts of
105 the investigation are pending, the request for review shall be made within sixty
106 days from the court's final disposition or dismissal of the charges.

107 5. In any such action for administrative review, the child abuse and
108 neglect review board shall sustain the division's determination if such
109 determination was supported by evidence of probable cause prior to August 28,

110 2004, or is supported by a preponderance of the evidence after August 28, 2004,
111 and is not against the weight of such evidence. The child abuse and neglect
112 review board hearing shall be closed to all persons except the parties, their
113 attorneys and those persons providing testimony on behalf of the parties.

114 6. If the alleged perpetrator is aggrieved by the decision of the child abuse
115 and neglect review board, the alleged perpetrator may seek de novo judicial
116 review in the circuit court in the county in which the alleged perpetrator resides
117 and in circuits with split venue, in the venue in which the alleged perpetrator
118 resides, or in Cole County. If the alleged perpetrator is not a resident of the
119 state, proper venue shall be in Cole County. The case may be assigned to the
120 family court division where such a division has been established. The request for
121 a judicial review shall be made within sixty days of notification of the decision of
122 the child abuse and neglect review board decision. In reviewing such decisions,
123 the circuit court shall provide the alleged perpetrator the opportunity to appear
124 and present testimony. The alleged perpetrator may subpoena any witnesses
125 except the alleged victim or the reporter. However, the circuit court shall have
126 the discretion to allow the parties to submit the case upon a stipulated record.

127 7. In any such action for administrative review, the child abuse and
128 neglect review board shall notify the child or the parent, guardian or legal
129 representative of the child that a review has been requested.

**210.564. 1. This section shall be known and may be cited as the
2 "Foster Care Bill of Rights".**

3 **2. The children's division shall provide every school-aged foster
4 child and his or her foster parent with an age-appropriate orientation
5 and explanation of the foster care bill of rights. Any children's division
6 office, residential care facility, child placing agency, or other agency
7 involved in the care and placement of foster children shall post the
8 foster care bill of rights in the office, facility, or agency. The children's
9 division shall also make the foster care bill of rights readily available
10 and easily accessible online.**

11 **3. The foster care bill of rights shall be as follows:**

12 **(1) In all circumstances, the best interests of the child shall be
13 the first priority of the children's division;**

14 **(2) Recognizing the importance of familial stability in foster care
15 and adoption placement, it shall be the practice of the children's
16 division, when appropriate, to support a child's return to the custody**

17 **and care of the parents or guardians with whom the child resided**
18 **immediately prior to state custody;**

19 **(3) When restoration of care and custody is not appropriate or**
20 **possible, the children's division shall attempt to place the child with**
21 **suitable relatives in accordance with section 210.565;**

22 **(4) The children's division shall further support familial stability**
23 **by ensuring continuity of foster placement, except in instances where**
24 **cause for a change in a child's placement is reasonably found;**

25 **(5) The children's division shall work with each child in state**
26 **custody to develop both a permanency plan and a case plan. These**
27 **plans shall be developed within twelve months of a child's entrance**
28 **into state custody. The permanency plan shall include the child's**
29 **immediate and long-term placement goals, while the case plan shall**
30 **address a child's specific medical and emotional needs;**

31 **(6) Recognizing the value of familial relationships in foster care**
32 **and adoption settings, it shall be the practice of the children's division**
33 **to place siblings in the same foster care, kinship, guardianship, or**
34 **adoptive placement, unless doing so would be contrary to the safety or**
35 **well-being of any of the siblings. If siblings are not placed together, it**
36 **shall be the practice of the children's division to support regular**
37 **visitation and communication between siblings in state custody, and**
38 **between children in state custody and their parents and relatives,**
39 **where not otherwise prohibited or against a child's best interests; and**

40 **(7) The children's division shall support all children twelve years**
41 **of age or older in state custody to attend any hearings pertaining to the**
42 **child's placement, custody, or care, provided that the child is willing**
43 **and able to attend such hearings, and that attending such hearings is**
44 **in the best interests of the child.**

210.565. 1. Whenever a child is placed in a foster home and the court has
2 determined pursuant to subsection 4 of this section that foster home placement
3 with relatives is not contrary to the best interest of the child, the children's
4 division shall give foster home placement to relatives of the
5 child. Notwithstanding any rule of the division to the contrary, the children's
6 division shall make diligent efforts to locate the grandparents of the child and
7 determine whether they wish to be considered for placement of the
8 child. Grandparents who request consideration shall be given preference and
9 first consideration for foster home placement of the child. If more than one

10 grandparent requests consideration, the family support team shall make
11 recommendations to the juvenile or family court about which grandparent should
12 be considered for placement.

13 2. As used in this section, the term "relative" means a grandparent or any
14 other person related to another by blood or affinity [within the third degree] **or**
15 **a person who is not so related to the child but has a close relationship**
16 **with the child or the child's family.** The status of a grandparent shall not
17 be affected by the death or the dissolution of the marriage of a son or daughter.

18 3. The following shall be the order or preference for placement of a child
19 under this section:

20 (1) Grandparents [and];

21 **(2) Relatives related by blood or affinity within the third degree;**

22 [(2) A trusted adult that has a preexisting relationship with the child,
23 such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily
24 agrees to care for the child; and]

25 **(3) Other relatives; and**

26 **(4) Any foster parent who is currently licensed and capable of accepting**
27 placement of the child.

28 4. The preference for placement and first consideration for grandparents
29 or preference for placement with other relatives created by this section shall only
30 apply where the court finds that placement with such grandparents or other
31 relatives is not contrary to the best interest of the child considering all
32 circumstances. If the court finds that it is contrary to the best interest of a child
33 to be placed with grandparents or other relatives, the court shall make specific
34 findings on the record detailing the reasons why the best interests of the child
35 necessitate placement of the child with persons other than grandparents or other
36 relatives.

37 5. Recognizing the critical nature of sibling bonds for children, the
38 children's division shall make reasonable efforts to place siblings in the same
39 foster care, kinship, guardianship, or adoptive placement, unless doing so would
40 be contrary to the safety or well-being of any of the siblings. If siblings are not
41 placed together, the children's division shall make reasonable efforts to provide
42 frequent visitation or other ongoing interaction between the siblings, unless this
43 interaction would be contrary to a sibling's safety or well-being.

44 6. The age of the child's grandparent or other relative shall not be the
45 only factor that the children's division takes into consideration when it makes

46 placement decisions and recommendations to the court about placing the child
47 with such grandparent or other relative.

48 7. For any Native American child placed in protective custody, the
49 children's division shall comply with the placement requirements set forth in 25
50 U.S.C. Section 1915.

51 8. A grandparent or other relative may, on a case-by-case basis, have
52 standards for licensure not related to safety waived for specific children in care
53 that would otherwise impede licensing of the grandparent's or relative's home. In
54 addition, any person receiving a preference may be licensed in an expedited
55 manner if a child is placed under such person's care.

56 9. The guardian ad litem shall ascertain the child's wishes and feelings
57 about his or her placement by conducting an interview or interviews with the
58 child, if appropriate based on the child's age and maturity level, which shall be
59 considered as a factor in placement decisions and recommendations, but shall not
60 supersede the preference for relative placement created by this section or be
61 contrary to the child's best interests.

211.059. 1. When a child is taken into custody by a juvenile officer or law
2 enforcement official, with or without a warrant for an offense in violation of the
3 juvenile code or the general law which would place the child under the
4 jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection
5 1 of section 211.031, the child shall be advised, **orally and in writing**, prior to
6 questioning:

7 (1) That [he] **the child** has the right to remain silent; [and]

8 (2) That any statement [he] **the child** does make to anyone can be and
9 may be used against [him] **the child in subsequent juvenile court**
10 **proceedings**; [and]

11 (3) That [he] **the child** has a right to have a parent, guardian or
12 custodian present during questioning; [and]

13 (4) That [he] **the child** has a right to consult with an attorney and that
14 one will be appointed and paid for him if he cannot afford one;

15 (5) **That the child has the right to stop talking at any time; and**

16 (6) **That any statement the child does make to law enforcement**
17 **can be and may be used against the child if the child is transferred to**
18 **a court of general jurisdiction to be prosecuted under the general law.**

19 2. [If the child indicates in any manner and at any stage of questioning
20 pursuant to this section that he does not wish to be questioned further, the officer

21 shall cease questioning.] **The juvenile officer shall halt or discontinue any**
22 **questioning by law enforcement upon notice from the child that the**
23 **child wishes to stop being questioned.**

24 **3. The juvenile officer shall ensure a child is advised of the**
25 **limited role of the juvenile officer during questioning by law**
26 **enforcement and specifically advise the child that the juvenile officer**
27 **is not legal counsel for the child or an advocate for the child during**
28 **questioning by law enforcement.**

29 **4. The juvenile officer shall not participate in the questioning by**
30 **law enforcement by asking any questions or soliciting any information**
31 **from the child regarding the alleged offense or offenses.**

32 **5.** When a child is taken into custody by a juvenile officer or law
33 enforcement official which places the child under the jurisdiction of the juvenile
34 court under subdivision (1) of subsection 1 of section 211.031, including any
35 interactions with the child by the children's division, the following shall apply:

36 (1) If the child indicates in any manner at any stage during questioning
37 involving the alleged abuse and neglect that the child does not wish to be
38 questioned any further on the allegations, or that the child wishes to have his or
39 her parent, legal guardian, or custodian if such parent, guardian, or custodian is
40 not the alleged perpetrator, or his or her attorney present during questioning as
41 to the alleged abuse, the questioning of the child shall cease on the alleged abuse
42 and neglect until such a time that the child does not object to talking about the
43 alleged abuse and neglect unless the interviewer has reason to believe that the
44 parent, legal guardian, or custodian is acting to protect the alleged
45 perpetrator. Nothing in this subdivision shall be construed to prevent the asking
46 of any questions necessary for the care, treatment, or placement of a child; and

47 (2) Notwithstanding any prohibition of hearsay evidence, all video or
48 audio recordings of any meetings, interviews, or interrogations of a child shall be
49 presumed admissible as evidence in any court or administrative proceeding
50 involving the child if the following conditions are met:

51 (a) Such meetings, interviews, or interrogations of the child are conducted
52 by the state prior to or after the child is taken into the custody of the state; and

53 (b) Such video or audio recordings were made prior to the adjudication
54 hearing in the case. Nothing in this paragraph shall be construed to prohibit the
55 videotaping or audiotaping of any such meetings, interviews, or interrogations of
56 a child after the adjudication hearing; and

57 (3) Only upon a showing by clear and convincing evidence that such a
58 video or audio recording lacks sufficient indicia of reliability shall such recording
59 be inadmissible.

60 The provisions of this subsection shall not apply to statements admissible under
61 section 491.075 or 492.304 in criminal proceedings.

211.081. 1. Whenever any person informs the [court in person and]
2 **juvenile officer** in writing that a child appears to be within the purview of
3 applicable provisions of section 211.031 or that a person seventeen years of age
4 appears to be within the purview of the provisions of subdivision (1) of subsection
5 1 of section 211.031, the [court] **juvenile officer** shall make or cause to be made
6 a preliminary inquiry to determine the facts and to determine whether or not the
7 interests of the public or of the child or person seventeen years of age require
8 that further action be taken. On the basis of this inquiry, the juvenile [court]
9 **officer** may make such informal adjustment as is practicable without a petition
10 or [may authorize the filing of a petition by the juvenile officer] **file a**
11 **petition**. Any other provision of this chapter to the contrary notwithstanding,
12 the juvenile court shall not make any order for disposition of a child or person
13 seventeen years of age which would place or commit the child or person seventeen
14 years of age to any location outside the state of Missouri without first receiving
15 the approval of the children's division.

16 2. Placement in any institutional setting shall represent the least
17 restrictive appropriate placement for the child or person seventeen years of age
18 and shall be recommended based upon a psychological or psychiatric evaluation
19 or both. Prior to entering any order for disposition of a child or person seventeen
20 years of age which would order residential treatment or other services inside the
21 state of Missouri, the juvenile court shall enter findings which include the
22 recommendation of the psychological or psychiatric evaluation or both; and
23 certification from the division director or designee as to whether a provider or
24 funds or both are available, including a projection of their future availability. If
25 the children's division indicates that funding is not available, the division shall
26 recommend and make available for placement by the court an alternative
27 placement for the child or person seventeen years of age. The division shall have
28 the burden of demonstrating that they have exercised due diligence in utilizing
29 all available services to carry out the recommendation of the evaluation team and
30 serve the best interest of the child or person seventeen years of age. The judge
31 shall not order placement or an alternative placement with a specific provider but

32 may reasonably designate the scope and type of the services which shall be
33 provided by the department to the child or person seventeen years of age.

34 3. Obligations of the state incurred under the provisions of section
35 211.181 shall not exceed, in any fiscal year, the amount appropriated for this
36 purpose.

211.211. 1. A [party] **child** is entitled to be represented by counsel in all
2 proceedings **under subdivision (2) or (3) of subsection 1 of section 211.031**
3 **and by a guardian ad litem in all proceedings under subdivision (1) of**
4 **subsection 1 of section 211.031.**

5 2. The court shall appoint counsel for a child prior to the filing of a
6 petition if a request is made therefor to the court and the court finds that the
7 child is the subject of a juvenile court proceeding and that the child making the
8 request is indigent.

9 3. When a petition has been filed **under subdivision (2) or (3) of**
10 **subsection 1 of section 211.031**, the court shall appoint counsel for the child
11 [when necessary to assure a full and fair hearing] **except if private counsel**
12 **has entered his or her appearance on behalf of the child or if counsel**
13 **has been waived in accordance with law.**

14 4. When a petition has been filed and the child's custodian appears before
15 the court without counsel, the court shall appoint counsel for the custodian if it
16 finds:

17 (1) That the custodian is indigent; and

18 (2) That the custodian desires the appointment of counsel; and

19 (3) That a full and fair hearing requires appointment of counsel for the
20 custodian.

21 5. Counsel shall be allowed a reasonable time in which to prepare to
22 represent his client.

23 6. Counsel shall serve for all stages of the proceedings, including appeal,
24 unless relieved by the court for good cause shown. If no appeal is taken, services
25 of counsel are terminated following the entry of an order of disposition.

26 7. The child and his custodian may be represented by the same counsel
27 except where a conflict of interest exists. Where it appears to the court that a
28 conflict exists, it shall order that the child and his custodian be represented by
29 separate counsel, and it shall appoint counsel if required by subsection 3 or 4 of
30 this section.

31 8. When a petition has been filed, a child may waive his right to counsel

32 only with the approval of the court.

33 9. Waiver of counsel by a child may be withdrawn at any stage of the
34 proceeding, in which event the court shall appoint counsel for the child if required
35 by subsection 3 of this section.

211.351. 1. The [juvenile] court **or the family court administrator in**
2 **circuits where a family court administrator has been appointed to act**
3 **as the appointing authority under section 487.060** shall appoint a juvenile
4 officer and other necessary juvenile court personnel to serve under the direction
5 of the court in each county of the first and second class and the circuit judge in
6 circuits comprised of third and fourth class counties:

7 (1) May appoint a juvenile officer and other necessary personnel to serve
8 the judicial circuit; or

9 (2) Circuit judges of any two or more adjoining circuits may by agreement,
10 confirmed by judicial order, appoint a juvenile officer and other necessary
11 personnel to serve their respective judicial circuits and, in such a case, the
12 juvenile officers and other persons appointed shall serve under the joint direction
13 of the judges so agreeing.

14 2. **The presiding judge of the circuit shall ensure that any case**
15 **in the family court or juvenile court division in which a juvenile officer**
16 **is a participant is not heard by a judge who is the appointing authority**
17 **for the juvenile officer or other necessary juvenile employees.**

18 3. In the event a juvenile officer and other juvenile court personnel are
19 appointed to serve as provided in subdivisions (1) and (2) of subsection 1 of this
20 section, the total cost to the counties for the compensation of these persons shall
21 be prorated among the several counties and upon a ratio to be determined by a
22 comparison of the respective populations of the counties.

23 [3.] 4. In each judicial circuit, a grievance review committee shall be
24 appointed by the circuit court en banc to serve as final administrative authority
25 of a grievance regarding personnel policy or action that negatively affects an
26 employee of the family court and/or juvenile court who is not governed by the
27 Missouri circuit court personnel system. The grievance review committee may be
28 comprised of either the circuit court en banc, a committee of not less than three
29 circuit or associate circuit judges, or other body established by local court rule.

211.361. 1. Whenever the need arises for the appointment of a juvenile
2 officer, the [juvenile] court **or the family court administrator in circuits**
3 **where a family court administrator has been appointed to act as the**

4 **appointing authority under section 487.060** shall either:

5 (1) Provide, by rule of court, for open competitive written and oral
6 examinations and create an eligible list of persons who possess the qualifications
7 prescribed by subdivision (2) and who have successfully passed such examination;
8 or

9 (2) Appoint any person over the age of twenty-one years who has
10 completed satisfactorily four years of college education with a major in sociology
11 or related subjects or who, in lieu of such academic training, has had four years
12 or more experience in social work with juveniles in probation or allied services.

13 2. This section does not terminate the existing appointment nor present
14 term of office of any juvenile officer or deputy juvenile officer in any county, but
15 it applies to any appointment to be made after the existing appointment or term
16 of office of any incumbent terminates or expires for any reason whatsoever.

211.401. 1. The juvenile officer shall[, under direction of the juvenile
2 court]:

3 (1) Make such investigations and furnish the court with such information
4 and assistance as the judge may [require] **order**;

5 (2) Keep a written record of such investigations and [submit reports
6 thereon to the judge] **offer such reports into evidence in accordance with**
7 **law**;

8 (3) Take charge of children before and after the hearing as may be
9 [directed] **ordered** by the court;

10 (4) Perform such other duties and exercise such powers as the judge of the
11 juvenile court may [direct] **order**.

12 2. The juvenile officer is vested with all the power and authority of
13 sheriffs to make arrests and perform other duties incident to his office.

14 3. The juvenile officers or other persons acting as such in the several
15 counties of the state shall cooperate with each other in carrying out the purposes
16 and provisions of this chapter.

211.447. 1. Any information that could justify the filing of a petition to
2 terminate parental rights may be referred to the juvenile officer by any
3 person. The juvenile officer shall make a preliminary inquiry and if it **appears**
4 **that the information could justify the filing of a petition, the juvenile**
5 **officer may take further action, including filing a petition. If it** does not
6 appear to the juvenile officer that a petition should be filed, such officer shall so
7 notify the informant in writing within thirty days of the referral. Such

8 notification shall include the reasons that the petition will not be
9 filed. [Thereupon, the informant may bring the matter directly to the attention
10 of the judge of the juvenile court by presenting the information in writing, and
11 if it appears to the judge that the information could justify the filing of a petition,
12 the judge may order the juvenile officer to take further action, including making
13 a further preliminary inquiry or filing a petition.]

14 2. Except as provided for in subsection 4 of this section, a petition to
15 terminate the parental rights of the child's parent or parents shall be filed by the
16 juvenile officer or the division, or if such a petition has been filed by another
17 party, the juvenile officer or the division shall seek to be joined as a party to the
18 petition, when:

19 (1) Information available to the juvenile officer or the division establishes
20 that the child has been in foster care for at least fifteen of the most recent
21 twenty-two months; or

22 (2) A court of competent jurisdiction has determined the child to be an
23 abandoned infant. For purposes of this subdivision, an "infant" means any child
24 one year of age or under at the time of filing of the petition. The court may find
25 that an infant has been abandoned if:

26 (a) The parent has left the child under circumstances that the identity of
27 the child was unknown and could not be ascertained, despite diligent searching,
28 and the parent has not come forward to claim the child; or

29 (b) The parent has, without good cause, left the child without any
30 provision for parental support and without making arrangements to visit or
31 communicate with the child, although able to do so; or

32 (c) The parent has voluntarily relinquished a child under section 210.950;
33 or

34 (3) A court of competent jurisdiction has determined that the parent has:

35 (a) Committed murder of another child of the parent; or

36 (b) Committed voluntary manslaughter of another child of the parent; or

37 (c) Aided or abetted, attempted, conspired or solicited to commit such a
38 murder or voluntary manslaughter; or

39 (d) Committed a felony assault that resulted in serious bodily injury to
40 the child or to another child of the parent.

41 3. A termination of parental rights petition shall be filed by the juvenile
42 officer or the division, or if such a petition has been filed by another party, the
43 juvenile officer or the division shall seek to be joined as a party to the petition,

44 within sixty days of the judicial determinations required in subsection 2 of this
45 section, except as provided in subsection 4 of this section. Failure to comply with
46 this requirement shall not deprive the court of jurisdiction to adjudicate a
47 petition for termination of parental rights which is filed outside of sixty days.

48 4. If grounds exist for termination of parental rights pursuant to
49 subsection 2 of this section, the juvenile officer or the division may, but is not
50 required to, file a petition to terminate the parental rights of the child's parent
51 or parents if:

52 (1) The child is being cared for by a relative; or

53 (2) There exists a compelling reason for determining that filing such a
54 petition would not be in the best interest of the child, as documented in the
55 permanency plan which shall be made available for court review; or

56 (3) The family of the child has not been provided such services as provided
57 for in section 211.183.

58 5. The juvenile officer or the division may file a petition to terminate the
59 parental rights of the child's parent when it appears that one or more of the
60 following grounds for termination exist:

61 (1) The child has been abandoned. For purposes of this subdivision a
62 "child" means any child over one year of age at the time of filing of the
63 petition. The court shall find that the child has been abandoned if, for a period
64 of six months or longer:

65 (a) The parent has left the child under such circumstances that the
66 identity of the child was unknown and could not be ascertained, despite diligent
67 searching, and the parent has not come forward to claim the child; or

68 (b) The parent has, without good cause, left the child without any
69 provision for parental support and without making arrangements to visit or
70 communicate with the child, although able to do so;

71 (2) The child has been abused or neglected. In determining whether to
72 terminate parental rights pursuant to this subdivision, the court shall consider
73 and make findings on the following conditions or acts of the parent:

74 (a) A mental condition which is shown by competent evidence either to be
75 permanent or such that there is no reasonable likelihood that the condition can
76 be reversed and which renders the parent unable to knowingly provide the child
77 the necessary care, custody and control;

78 (b) Chemical dependency which prevents the parent from consistently
79 providing the necessary care, custody and control of the child and which cannot

80 be treated so as to enable the parent to consistently provide such care, custody
81 and control;

82 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
83 toward the child or any child in the family by the parent, including an act of
84 incest, or by another under circumstances that indicate that the parent knew or
85 should have known that such acts were being committed toward the child or any
86 child in the family; or

87 (d) Repeated or continuous failure by the parent, although physically or
88 financially able, to provide the child with adequate food, clothing, shelter, or
89 education as defined by law, or other care and control necessary for the child's
90 physical, mental, or emotional health and development.

91 Nothing in this subdivision shall be construed to permit discrimination on the
92 basis of disability or disease;

93 (3) The child has been under the jurisdiction of the juvenile court for a
94 period of one year, and the court finds that the conditions which led to the
95 assumption of jurisdiction still persist, or conditions of a potentially harmful
96 nature continue to exist, that there is little likelihood that those conditions will
97 be remedied at an early date so that the child can be returned to the parent in
98 the near future, or the continuation of the parent-child relationship greatly
99 diminishes the child's prospects for early integration into a stable and permanent
100 home. In determining whether to terminate parental rights under this
101 subdivision, the court shall consider and make findings on the following:

102 (a) The terms of a social service plan entered into by the parent and the
103 division and the extent to which the parties have made progress in complying
104 with those terms;

105 (b) The success or failure of the efforts of the juvenile officer, the division
106 or other agency to aid the parent on a continuing basis in adjusting his
107 circumstances or conduct to provide a proper home for the child;

108 (c) A mental condition which is shown by competent evidence either to be
109 permanent or such that there is no reasonable likelihood that the condition can
110 be reversed and which renders the parent unable to knowingly provide the child
111 the necessary care, custody and control;

112 (d) Chemical dependency which prevents the parent from consistently
113 providing the necessary care, custody and control over the child and which cannot
114 be treated so as to enable the parent to consistently provide such care, custody
115 and control; or

116 (4) The parent has been found guilty or pled guilty to a felony violation
117 of chapter 566 when the child or any child in the family was a victim, or a
118 violation of section 568.020 when the child or any child in the family was a
119 victim. As used in this subdivision, a "child" means any person who was under
120 eighteen years of age at the time of the crime and who resided with such parent
121 or was related within the third degree of consanguinity or affinity to such parent;
122 or

123 (5) The child was conceived and born as a result of an act of forcible rape
124 or rape in the first degree. When the biological father has pled guilty to, or is
125 convicted of, the forcible rape or rape in the first degree of the birth mother, such
126 a plea or conviction shall be conclusive evidence supporting the termination of the
127 biological father's parental rights; or

128 (6) (a) The parent is unfit to be a party to the parent and child
129 relationship because of a consistent pattern of committing a specific abuse
130 including, but not limited to, specific conditions directly relating to the parent
131 and child relationship which are determined by the court to be of a duration or
132 nature that renders the parent unable for the reasonably foreseeable future to
133 care appropriately for the ongoing physical, mental, or emotional needs of the
134 child.

135 (b) It is presumed that a parent is unfit to be a party to the parent and
136 child relationship upon a showing that:

137 a. Within a three-year period immediately prior to the termination
138 adjudication, the parent's parental rights to one or more other children were
139 involuntarily terminated pursuant to subsection 2 or 4 of this section or
140 subdivision (1), (2), (3), or (4) of this subsection or similar laws of other states;

141 b. If the parent is the birth mother and within eight hours after the
142 child's birth, the child's birth mother tested positive and over .08 blood alcohol
143 content pursuant to testing under section 577.020 for alcohol, or tested positive
144 for cocaine, heroin, methamphetamine, a controlled substance as defined in
145 section 195.010, or a prescription drug as defined in section 196.973, excepting
146 those controlled substances or prescription drugs present in the mother's body as
147 a result of medical treatment administered to the mother, and the birth mother
148 is the biological mother of at least one other child who was adjudicated an abused
149 or neglected minor by the mother or the mother has previously failed to complete
150 recommended treatment services by the children's division through a family-
151 centered services case;

152 c. If the parent is the birth mother and at the time of the child's birth or
153 within eight hours after a child's birth the child tested positive for alcohol,
154 cocaine, heroin, methamphetamine, a controlled substance as defined in section
155 195.010, or a prescription drug as defined in section 196.973, excepting those
156 controlled substances or prescription drugs present in the mother's body as a
157 result of medical treatment administered to the mother, and the birth mother is
158 the biological mother of at least one other child who was adjudicated an abused
159 or neglected minor by the mother or the mother has previously failed to complete
160 recommended treatment services by the children's division through a family-
161 centered services case; or

162 d. Within a three-year period immediately prior to the termination
163 adjudication, the parent has pled guilty to or has been convicted of a felony
164 involving the possession, distribution, or manufacture of cocaine, heroin, or
165 methamphetamine, and the parent is the biological parent of at least one other
166 child who was adjudicated an abused or neglected minor by such parent or such
167 parent has previously failed to complete recommended treatment services by the
168 children's division through a family-centered services case.

169 6. The juvenile court may terminate the rights of a parent to a child upon
170 a petition filed by the juvenile officer or the division, or in adoption cases, by a
171 prospective parent, if the court finds that the termination is in the best interest
172 of the child and when it appears by clear, cogent and convincing evidence that
173 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

174 7. When considering whether to terminate the parent-child relationship
175 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of
176 subsection 5 of this section, the court shall evaluate and make findings on the
177 following factors, when appropriate and applicable to the case:

178 (1) The emotional ties to the birth parent;

179 (2) The extent to which the parent has maintained regular visitation or
180 other contact with the child;

181 (3) The extent of payment by the parent for the cost of care and
182 maintenance of the child when financially able to do so including the time that
183 the child is in the custody of the division or other child-placing agency;

184 (4) Whether additional services would be likely to bring about lasting
185 parental adjustment enabling a return of the child to the parent within an
186 ascertainable period of time;

187 (5) The parent's disinterest in or lack of commitment to the child;

188 (6) The conviction of the parent of a felony offense that the court finds is
189 of such a nature that the child will be deprived of a stable home for a period of
190 years; provided, however, that incarceration in and of itself shall not be grounds
191 for termination of parental rights;

192 (7) Deliberate acts of the parent or acts of another of which the parent
193 knew or should have known that subjects the child to a substantial risk of
194 physical or mental harm.

195 8. The court may attach little or no weight to infrequent visitations,
196 communications, or contributions. It is irrelevant in a termination proceeding
197 that the maintenance of the parent-child relationship may serve as an
198 inducement for the parent's rehabilitation.

199 9. In actions for adoption pursuant to chapter 453, the court may hear and
200 determine the issues raised in a petition for adoption containing a prayer for
201 termination of parental rights filed with the same effect as a petition permitted
202 pursuant to subsection 2, 4, or 5 of this section.

203 10. The disability or disease of a parent shall not constitute a basis for a
204 determination that a child is a child in need of care, for the removal of custody
205 of a child from the parent, or for the termination of parental rights without a
206 specific showing that there is a causal relation between the disability or disease
207 and harm to the child.

566.150. 1. Any person who has been found guilty of:

2 (1) Violating any of the provisions of this chapter or the provisions of
3 section 568.020, incest; section 568.045, endangering the welfare of a child in the
4 first degree; section 573.200, use of a child in a sexual performance; section
5 573.205, promoting a sexual performance by a child; section 573.023, sexual
6 exploitation of a minor; section 573.025, promoting child pornography; or section
7 573.040, furnishing pornographic material to minors; or

8 (2) Any offense in any other jurisdiction which, if committed in this state,
9 would be a violation listed in this section;
10 shall not knowingly be present in or loiter within five hundred feet of any real
11 property comprising any public park with playground equipment [or], a public
12 swimming pool, **or any museum with the primary purpose of entertaining**
13 **or educating children under eighteen years of age.**

14 2. The first violation of the provisions of this section is a class E felony.

15 3. A second or subsequent violation of this section is a class D felony.

Section B. Because immediate action is necessary to prevent any loss of

2 federal funding for child welfare services in Missouri, the repeal and reenactment
3 of sections 210.110 and 210.152 of section A of this act is deemed necessary for
4 the immediate preservation of the public health, welfare, peace, and safety, and
5 is hereby declared to be an emergency act within the meaning of the constitution,
6 and the repeal and reenactment of sections 210.110 and 210.152 of section A of
7 this act shall be in full force and effect upon its passage and approval.

✓

Unofficial

Bill

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